IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

MONDAY, THE 19TH MARCH 2007 / 28TH PHALGUNA 1928

WP(C).No. 25066 of 2006(H)

PETITIONER:

RAJAN CASHEW COMPANY,
REP. BY ITS PROPRIETOR,
P.NATARAJAN, MARANADU,
EZHUKONE, KOLLAM.

BY ADV. SRI.M.S.UNNIKRISHNAN
SMT.S.KARTHIKA
SRI.M.R.ANISON

RESPONDENTS:

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1. KERALA STATE ELECTRICITY BOARD,
REP. BY ITS CHAIRMAN,
K.S.E.BOARD, THIRUVANANTHAPURAM.

2. KERALA STATE ELECTRICITY REGULATORY
COMMISSION, REP. BY ITS CHAIRMAN,
30, PARAMESWARA BHAVAN, BELLIHAVEN GARDENS,
KOWDIYAR, THIRUVANANTHAPURAM.

3. THE ASSISTANT EXECUTIVE ENGINEER,
MAJOR SECTION, K.S.E.B.,
EZHUKONE, KOLLAM.

R1 & R3 BY ADV. SRI.JOSE J.MATHEIKEL, SC, KSEB
R2 BY ADV.SRI.T.K.KUNHABDULLA

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 19/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF THE JUDGMENT DATED 28.11.2005 IN W.A.1372/2003 OF THIS COURT.

EXT.P2 TRUE COPY OF THE BILL DATED 14.9.2006.

EXT.P3 TRUE COPY OF THE LETTER DATED 19.8.2006 ISSUED BY THE 2ND RESPONDENT.

EXT.P4 TRUE COPY OF THE PROCEEDINGS DATED 20.11.2006 ISSUED BY THE 1ST RESPONDENT.

EXT.P5 TRUE COPY OF THE BILL DATED 20.11.2006 ISSUED BY THE 1ST RESPONDENT.

EXT.P6 TRUE COPY OF THE PROCEEDINGS DATED 20.11.2006 ISSUED BY 1ST RESPONDENT.

EXT.P7 TRUE COPY OF THE BILL DATED 20.11.2006 ISSUED BY THE 1ST RESPONDENT.

/ TRUE COPY /

K.BALAKRISHNAN NAIR, J.

W.P.(C) No. 25066 of 2006

Dated this the 19th day of March, 2007.

JUDGMENT

The petitioner challenges Ext.P3 decision of the Kerala State Electricity Regulatory Commission. The said order has been passed without hearing the petitioner. It is pointed out that a Division Bench of this Court by Ext.P1 judgment specifically ordered to grant the petitioner also an opportunity of being heard, but without hearing it the impugned order has been passed.

2. The second respondent has filed a statement in which it is stated that the petitioner's matter was not placed by the Kerala State Electricity Board before it and therefore no notice was issued to the petitioner. Heard learned Standing Counsel for the Electricity Board also. The learned Standing Counsel for the Electricity Board contended that this being an objective decision, the petitioner was not prejudiced by the non-hearing. Since there is a specific direction by the Division Bench of this Court to afford an opportunity of being heard to the petitioner, the order passed in violation of it cannot be sustained.

3. Therefore, it is declared that the petitioner will not be bound by Ext.P3. The second respondent shall hear the petitioner and pass

a fresh order on the claim of the petitioner regarding applicability of LT-IV tariff instead of LT-VII(A) within two months from the date of production of a copy of this judgment.

The writ petition is disposed of as above.

K.BALAKRISHNAN NAIR,
Judge.

vns.